

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF BCN)
TELECOM, INC., F/K/A INTERNATIONAL TELE-)
PHONE GROUP, INC., AND NUI TELECOM, INC.,) PSC DOCKET NO. 04-231
FOR APPROVAL TO REDUCE ITS BONDING REQUIRE-)
MENT TO \$10,000 (FILED JUNE 18, 2004))

FINDINGS AND ORDER NO. 6447

This 6th day of July, 2004, the Public Service Commission ("PSC" or the "Commission") finds, determines, and Orders the following:

1. In PSC Order No. 5343 (Feb. 8, 2000), the Commission granted International Telephone Group, Inc., a Certificate of Public Convenience and Necessity ("CPCN") to allow it to provide competitive intrastate telecommunications services within Delaware. In PSC Order No. 5355 (Mar. 14, 2000), the Commission granted International Telephone Group, Inc., a conditional Certificate of Public Convenience and Necessity to allow it to provide local exchange telecommunications services within Delaware. On March 21, 2000, International Telephone Group, Inc., filed an application to change its name to NUI Telecom, Inc. On October 10, 2003, NUI Telecom, Inc., completed the requirements detailed in PSC Order No. 5355 and commenced local exchange telecommunications services. On May 14, 2004, NUI Telecom, Inc., filed an application to change its name to BCN Telecom, Inc. ("BCN").

2. Under Rule 4(f)(i) of the Commission's "Rules for the Provision of Telecommunications Services" (adopted by PSC Order No. 5833 (Nov. 6, 2001)),¹ a carrier seeking a CPCN to provide telecommunications

¹Hereafter referred to as the "Telecommunications Rules."

services must post with the Commission a surety bond in the amount of Ten Thousand Dollars (\$10,000) to secure adequate performance of its regulatory obligations. In addition, under Rule 4(f)(ii) of the Telecommunications Rules, no carrier may require its customers to submit a deposit or prepay for its services unless such carrier posts a surety bond with the Commission to ensure return of such deposits or pre-paid amounts in the event of the carrier's cessation of operations;

3. Consistent with these Telecommunications Rules, Staff informed BCN that it was required to file a surety bond in the amount of Fifty Thousand Dollars. Such bond amount represented the obligation of a prepayment guarantee of \$50,000 (Rule 4 (f)(ii)) for both local and competitive intrastate telecommunications services. On July 25, 2003, NUI Telecom, Inc., filed that bond with the Commission;

4. In light of the financial hardship that the Rule 4(f) bonds have imposed on telecommunications carriers, Staff sent a letter to certificated local exchange companies explaining that any local exchange company that had filed a surety bond in the amount of Fifty or Sixty Thousand Dollars and, at this time, did not collect prepayments or deposits, could file a request to reduce its bond to the amount of Ten Thousand Dollars (\$10,000) representing the performance bond amount under Rule 4(f)(i). Because the carrier no longer seeks to collect deposits nor require prepayments for services, the provisions of the bonding requirements in Rule 4(f)(ii) would no longer be applicable;

5. On June 18, 2004, BCN filed an application requesting Commission approval to reduce its bond from Fifty Thousand Dollars (\$50,000) to Ten Thousand Dollars (\$10,000) because BCN does not presently collect prepayments or deposits from its customers. Staff recommends approval of such request; and

6. Based on the representations that BCN no longer requires deposits or prepayments that would trigger the additional bond requirements of Rule 4(f)(ii), the Commission grants BCN's request to modify its bond obligation to only the Ten Thousand Dollar (\$10,000) performance bond required by Rule 4(f)(i) of the Telecommunications Rules.

Now, therefore, **IT IS ORDERED:**

1. That the Commission grants BCN Telecom, Inc.'s request to reduce its bond from Fifty Thousand Dollars (\$50,000) to Ten Thousand Dollars (\$10,000) with such bond to conform with the requirements of Rule 4(f)(i) of the "Rules for the Provision of Telecommunications Services," adopted in PSC Order No. 5833 (Nov. 6, 2001).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this proceeding as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Donald J. Puglisi
Commissioner

/s/ Joann T. Conaway
Commissioner

PSC Docket No. 04-231, Order No. 6447 Cont'd.

Commissioner

ATTEST:

/s/ Karen J. Nickerson
Secretary